

Supreme Court hearings to seek court reorganization solutions

by Chief Justice Maura D. Corrigan

I wanted to take the opportunity to bring you up to date on a couple of important matters. As most everyone with a connection to the judiciary is aware, the issue of court reorganization has been an ongoing debate for much of the past two decades. By this I am referring most particularly to which trial court structure best serves the public. The demonstration project courts have provided a wealth of information about the benefits to the public when the stakeholders at the local level come together around the goal of public service. The Legislature's creation of the family division of Circuit Court has additionally provided the opportunity to deliver better service to families. Both of these innovations require the exercise of the Supreme Court's assignment authority to place judges in a court other than the court to which they were elected or appointed. Throughout the past several years, numerous plans have been advanced to make such changes in court structure more permanent through legislative means, either by constitution or statute. None have survived the rigorous legislative process necessary to bring about change.

On July 27, the Michigan Supreme Court took a very important step. In a unanimous action, the Court sent a letter to the Governor, members of the Legislature, and members of the Judiciary, announcing our intent to begin the

See SUPREME COURT, page 2



The Michigan Supreme Court's goals for the judiciary:

Fairness

Accessibility

Accountability

Effectiveness

Responsiveness

Independence

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Supreme Court hearings to seek solutions

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process of constructing a proposal for court reorganization. The Court has committed to hold a series of public hearings on this matter, the first of which will be September 13 in Lansing. Our objective is to focus on solutions that would preserve the public service benefits that the demonstration project courts and family division are delivering, and would extend those benefits to all Michigan citizens. I realize that in past efforts toward court reorganization, the lack of consensus among stakeholders has played a significant role in preventing change. It is our great hope that this process will result in the opportunity for all to be heard, and ultimately for the judiciary to speak with a single voice.

The other matter that I would like to bring to your attention is the state of the judiciary's budget. Governor Engler signed our fiscal year 2001-02 budget on July 24. In light of the slowing economy and less favorable revenue projections, budget reductions were required of all branches of state government. Our reduction is 2.5%. Because the vast majority of our budget is for judicial salaries and staff, finding areas to absorb the reduction is particularly challenging. I feel strongly that our highest priority must be preservation of our ability to deliver services, and that we must maintain our staffing level in order to do so. I am grateful to the men and women in the judiciary throughout the State who work with a high level of dedication to public service.

There is a brighter side of our budget. The Legislature approved \$2.9 million for the Judicial Technology Improvement Fund. Our goal is to begin the infrastructure of connectivity that will allow the exchange of information between all our courts and state agencies. Justice Young is leading a committee that will map out our technology priorities.

The Legislature also provided significant additional funding for drug courts, increasing the appropriation from \$1.2 million in the current year to \$1.7 million next year. As the successes of drug courts become more apparent, there is great interest and enthusiasm in increasing the number of drug courts in the State.

Having been Chief Justice now for just a little over seven months, I have learned a tremendous amount. Perhaps the most important lesson I have learned is that our best results come from collaborative efforts. I am convinced that our strength lies in our ability to share our best ideas. I look forward to our continued work together.

Legislative Update

In this edition of the Supreme Court Report we are happy to provide you with a "Legislative Update." This document gives a synopsis and the status of prominent legislation that affects the judiciary. For a complete listing of legislation affecting the judiciary go to the Supreme Court's website and click on "Legislative News." If you have questions concerning any legislative issues, please do not hesitate to contact either Mike Gadola or Anne Vrooman in the Office of Chief Justice at the numbers provided in the Update.

Michigan Supreme Court **REPORT**

The *Michigan Supreme Court Report* is published by the Michigan Supreme Court.

Chief Justice

Maura D. Corrigan

Justices

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman

Public Information Office

Michigan Supreme Court
PO Box 30052
Lansing, MI 48933
PH: 517/373-0129

Access Michigan's One Court of Justice on the Web

www.supremecourt.state.mi.us

For information regarding changes of address or employment opportunities, contact Brenda Underwood, SCAO, at 517/373-9231 or underwoodb@jud.state.mi.us

Michigan Supreme Court Legislative Update

Contact:

Mike Gadola
373-0128

Anne Vrooman
373-0128

HB 4090; HB 4551-53; HB 4798

Sponsor:

HB 4090 - Switalski; HB 4551 - Newell;
HB 4552 - Daniels; HB 4553 - Richner;
HB 4798 - Richner

Introduction Date:

HB 4090 – 01/31/01
HB 4551-53 – 4/17/01
HB 4798 - 5/22/01

Current Status: ✖

2nd Reading, House

Summary:

Courts; juries; juror compensation; increase.

Comments:

The bills would increase juror compensation for the second or subsequent day of actual attendance from \$7.50 to \$20 per half day and from \$15 to \$40 per full day. The bills would finance this increase through creation of a state-level juror compensation reimbursement fund to reimburse local units for the increased juror costs. The funding source would consist of an increase from \$25 to \$50 in the drivers' license clearance fee, an increase in the circuit court jury demand fee from \$60 to \$85, and an increase in the district court jury demand fee from \$40 to \$50. The bills were reported from the House Committee on Civil Law & the Judiciary but have not seen action on the House floor. Although best estimates are that the increase in juror compensation would be fully state-funded under this formula, one of the bill sponsors (Richner) expressed concern in committee about potential Headlee lawsuits if it develops that locals are not fully reimbursed.

HB 4140

Sponsor:

Shulman

Introduction Date:

02/06/01

Current Status: ✖

2nd Reading, House

Summary:

Courts; other; cyber court; create.

Comments:

The bill was unanimously reported from the House Committee on Civil Law & the Judiciary, but with a commitment from the Chairman of the committee that it would not see action on the House floor until after the summer recess. Committee Democrats voted to report the bill from committee, but indicated that they were not yet prepared to support the measure on the House floor.

HB 4610-13; HB 4633; SB 389; SB 393-394

Sponsor:

HB 4610 - Faunce; HB 4611 - Julian;
HB 4612 - Kowall; HB 4613 - George;
HB 4633 - O'Neil;
SB 389 - Van Regenmorter;
SB 393 - McCotter; SB 394 - Bullard

Introduction Date:

HB 4610-13 - 4/18/01
HB 4633 - 4/19/01
SB 389 & SB393 - 4/18/01
SB 394 - 4/15/01

Current Status: ✖

HB 4610 - Public Act 88
HB 4611 - Public Act 91
HB 4612 - Public Act 86
HB 4613 - Public Act 89
HB 4633 - Public Act 85
SB 389 - Public Act 87
SB 393 - Public Act 90
SB 394 - Public Act 84

Summary:

DNA specimen of all persons convicted of a felony; require.

Comments:

Bills signed by the Governor on 7/26/01.

Michigan Supreme Court Legislative Update

Contact:

Mike Gadola
373-0128

Anne Vrooman
373-0128

HB 4675 & SB 526

Sponsor:

HB 4675 - Allen; SB 526 - North

Introduction Date:

HB 4675 - 4/26/01

SB 526 - 6/6/01

Current Status: ✕

HB 4675 - In Committee, House

Appropriations

SB 526 - In Committee, Senate Judiciary

Summary:

Retirement; judges; rate of retirement allowance; revise.

Comments:

The North bill (SB 526) represents an agreement retired judges (represented by Glenn Allen) have reached with the Administration. The Allen bill (HB 4675) does not at this point conform to that agreement. The North bill would provide a slight increase in retirement benefits for judges who retired between the start of 1980 and the end of 1998.

HB 4788 & SB 504

Sponsor:

HB 4788 - Patterson; SB 504 - Bennett

Introduction Date:

HB 4788 - 5/17/01

SB 504 - 5/22/01

Current Status: ✕

HB 4788 - 2nd Reading, House

SB 504 - In Committee, Senate Judiciary

Summary:

Courts; reorganization; merger of certain judicial districts; allow, and adjust number of judgeships.

Comments:

The Patterson bill (HB 4788), which consolidates, adds and deletes various district judgeships, was reported by the House Committee on Civil Law & the Judiciary, but with a commitment from the bill sponsor that the bill would not see action on the House floor prior to issuance of SCAO's judicial resources report (weighted caseload study) in August. We have indicated that any attempts to create or eliminate judgeships are premature prior to issuance of that report. The Bennett bill (SB 504) is identical to the House version but has not seen any committee action.

HJR P

Sponsor:

Bishop

Introduction Date:

06/07/01

Current Status: ✕

In Committee, House Civil Law and the Judiciary

Summary:

Retirement; judges; retirement age for judges; revise to age 75.

Comments:

It seems unlikely that this measure will receive consideration at this time.

SB 77

Sponsor:

Bullard

Introduction Date:

02/01/01

Current Status: ✕

In Committee, Senate Judiciary

Summary:

Courts; circuit court; circuit court magistrates; provide for.

Comments:

No committee activity anticipated at this time.

SB 417

Sponsor:

Van Regenmorter

Introduction Date:

4/24/01

Current Status: ✕

In Committee, Senate Judiciary

Summary:

Courts; reorganization; merger of probate and circuit courts; provide for.

Comments:

This is the statutory component of Senator Van Regenmorter's court reorganization proposal.

Michigan Supreme Court Legislative Update

Contact:

Mike Gadola
373-0128

Anne Vrooman
373-0128

| | |
|--|---|
| <p>SB 519</p> <p>Sponsor: Sikkema Introduction Date: 5/30/01 Current Status: ✖ In Committee, Senate Judiciary</p> | <p>Summary: Courts; circuit courts; court of claims; revise.</p> <p>Comments: This bill, which has not received any consideration in committee, would divide the Court of Claims into 5 districts along the lines of the current COA districts, but with a separate district for the Upper Peninsula. Senator Sikkema introduced a bill in the last session that would have abolished the Court of Claims altogether.</p> |
| <p>SJR D</p> <p>Sponsor: McCotter Introduction Date: 2/01/01 Current Status: ✖ Conference Committee</p> | <p>Summary: State; employees and officers; adoption of SOCC recommendation for next legislative session; require legislature approval.</p> <p>Comments: This proposal has passed both chambers in widely different forms and is now in a House-Senate conference committee.</p> |
| <p>SJR F</p> <p>Sponsor: Sikkema Introduction Date: 2/02/01 Current Status: ✖ In Committee, Senate Governmental Operations</p> | <p>Summary: Courts; supreme court; gubernatorial appointment of supreme court justices; provide for.</p> <p>Comments: This proposal, which received much favorable editorial coverage, has not been taken up in committee and there are no known plans to do so.</p> |
| <p>SJR R</p> <p>Sponsor: Van Regenmorter Introduction Date: 3/29/01 Current Status: ✖ In Committee, Senate Judiciary</p> | <p>Summary: Courts; reorganization; merger of probate court and circuit court; allow and make related amendments regarding the judicial branch.</p> <p>Comments: This is the constitutional amendment leg of Senator Van Regenmorter's court reorganization proposal, which essentially involves a merger of the probate and circuit courts.</p> |

Topical list of contents:

| Circuit Court Magistrates | Court of Claims | Court Reorganization | Cyber Court | DNA Specimen/ Court Fee | Gubernatorial Appointment of S.C. Justices | Judicial Retirement | Juror Compensation | SOCC |
|---------------------------|-----------------|--------------------------------------|-------------|---|--|----------------------------|---|-------|
| SB 77 | SB 519 | HB 4788 SB 417 SB 504 SJR R | HB 4140 | HB 4610-13 HB 4633 SB 389 SB 393-394 | SJR F | HB 4675 SB 526 HJR P | HB 4090 HB 4551 HB 4552 HB 4553 HB 4798 | SJR D |

✖ = change since last update

8/03/01

Flexibility within limits key to collections program at Rochester Hills district court

Six years ago, collecting fines and costs at district court in Rochester Hills was a waiting game. With the caseload growing, collections slipped down the court's to do list. Defendants controlled the process, paying up when they had the means and the motivation.

"We would collect in installments based on when the defendant came in to take care of it," said Mari Harvey-Edwards, accounts receivable clerk for 52nd District Court Division 3. "It sometimes took 10 years to collect a \$500 fine."

That changed with a new program, which Ms. Harvey-Edwards helped to develop. The plan put the court in control of collections, and Ms. Harvey-Edwards in charge of accounts receivable. It gave defendants flexible payment terms within limits, and imposed sanctions when the limits weren't met. Ms. Harvey-Edwards estimates that compliance has risen at least 30 percent since the program began.

That is a significant improvement for a collections system with 2,000 clients who may owe anywhere from \$80 to \$8,000 apiece. The court has \$500,000 to \$800,000 outstanding in fines and costs at any given time.

Consistent enforcement of rules, timetables, and penalties has made the difference. "We allow a reasonable amount of time, and everyone gets the same amount of time. If you don't comply, you get the full force of the court's enforcement power," Ms. Harvey-Edwards said. "It's a matter of having things in line, and sticking with it. Once defendants know you'll stick with it, they will comply."

Under the standard plan, defendants have six months to pay their fines and costs. The first month's payment is deferred for 30 days. Amounts of \$300 or less are due within 30 days, through Ms. Harvey-Edwards can extend the period to 45 days and a judge for longer.

In lieu of payment, defendants can be sentenced to community service. Their hours are scheduled according to the payment plan's time frame. Scheduling hours in advance helps defendants avoid a crunch as their deadlines approach.

The court holds settlement hearings – about 100 a month – for defendants who veer off their plans. The hearings are scheduled 30 to 45 days before a court date in an attempt to bring defendants back on track. The general rule is that if a defendant is one payment behind, he or she can pay up with a late fee and go back on the original payment plan. A defendant who is two payments late must face the judge. Penalties, which are explained at the beginning of the program, may include a driver's license suspension, a surcharge, or jail time.

As the program's manager, Ms. Harvey-Edwards provides continuity and coordinated communication between her office, defendants and probation officers. The program benefits all concerned, Ms. Harvey-Edwards said. By controlling the collections process the court has the leverage to increase the rate of timely payments. The court collects about 75 to 80 percent of fines and costs issued to clients between two weeks and six months after sentencing.

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Flexibility within limits key to collections program

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Defendants enter a system that offers assistance within limits and spells out the consequences of noncompliance up front. The program enables some defendants to avoid the embarrassment of explaining to a judge that they can't meet a court order for payment by a date certain. Judges defer to the plan.

Judge Julie Nicholson, Presiding judge of the 52-3 District Court and Chief Judge of the 52nd District Court, recognizes the importance of a collections system. We can assess all the fines and costs we want to punish defendants, but if we cannot collect them, the message is lost."

Judge Nicholson also believes that it is crucial that the person responsible for the collection of fines and costs be thorough, firm, and fair. "We refer to Mari as the 'bulldog' at the counter. She takes the time to sit down with the defendants and analyze their current ability to pay and works out realistic payment programs for them if necessary."

"Without the support of the judges, the program wouldn't be as successful, and I'm not even sure it would be in place," Ms. Harvey-Edwards said.

Probation officers and scheduling clerks benefit by being free of collection duties. "She saves us a lot of footwork," said Probation Officer Sheri Zelek of Mari Harvey-Edwards. "When we first meet with a probationer, we address all the issues, all the conditions. The officer will ask 'are you on a payment plan, is there a problem?' If they say there is a problem, such as a license suspension or a layoff, they may refer it to Mari."

"You have to have a certain kind of personality for this job," Ms. Zelek said, "and Mari is perfect."

Administrative Update

National conference slated on science and the law

A National Conference on Science and the Law will be held on Oct. 4-6, 2001 in Miami, Fla., to improve understanding among scientists, attorneys, and judges and foster future research on the role of science in the criminal justice system. The conference will be sponsored by the National Institute of Justice, American Bar Association, American Academy of Forensic Sciences, and the National Center for State Courts, in collaboration with the National Academies and the American Association for the Advancement of Science.

The registration deadline is September 14, 2001. For more information, visit the National Institute of Justice website: www.nijpcs.org/SL_2001/SLBrochure.htm.

Administrative Update

MJI to publish new Crime Victim Rights Manual

In late August, the Michigan Judicial Institute will publish the Crime Victim Rights Manual, a 350-page reference source on crime victim participation in court proceedings. Topics discussed in the manual include the psychological impact of victimization and its effect on victim participation in court proceedings; the applicability and structure of the Crime Victim's Rights Act; victim safety, privacy, and notification; the crime victim at trial; victim impact statements; restitution; and the relationship between criminal or juvenile proceedings and civil suits filed by crime victims. The manual includes the changes made to the Crime Victim's Rights Act by 2000 PA 503.

The manual will be distributed to all circuit, district, and probate court judges, district court magistrates, referees, probation officers, county clerks, and to other agencies that interact with and assist crime victims. Additional copies may be obtained by contacting Tricia Shaver at (517) 334-7805 or shavert@jud.state.mi.us. Other questions or concerns about the manual should be directed to Tobin L. Miller, research attorney, at (517) 334-8996 or millert@jud.state.mi.us.

The Crime Victim Rights Manual was supported by Crime Victim Assistance Grant Award CVA# 20725-1V98 awarded to the Michigan Judicial Institute by the Michigan Crime Victim Services Commission.

U.S. Supreme Court accepting fellowship applications

The U. S. Supreme Court is accepting applications for the Judicial Fellows program. The Chief Justice describes the Fellows Program as a unique opportunity for exceptional individuals to contribute to the administration of justice at the national level. The fellowship is a one-year appointment, beginning in August or September. Fellowships are paid appointments to the Supreme Court, Administrative Office of the U. S. Courts, Federal Judicial Center, or U. S. Sentencing Commission. The application deadline is November 9, 2001.

More information is available at www.fellows.supremecourt.us.gov.

Scientific evidence guide updated by Federal Judicial Center

The Federal Judicial Center's (FJC) Reference Manual on Scientific Evidence 2nd Edition (2000) is now available through the FJC website and three private publishing companies. The manual contains 12 chapters (639 pages), and is written by individual experts, with an introduction by U.S. Supreme Court Justice Stephen Breyer. It updates and improves upon a 1994 first edition. While essentially a treatise on scientific evidence, the manual is intended to demystify science and to assist federal judges in managing civil and criminal cases involving complex scientific and technical evidence.

The manual's first three chapters—"The Supreme Court's Trilogy on the Admissibility of Expert Testimony," the "Management of Expert Evidence," and "How Science Works"—provide basic information about scientific evidence in general, how the trilogy of cases impact that evidence, and how that evidence can

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ADMINISTRATIVE MAILINGS

2001 Public Act 381;
Concealed Pistol
Licensing—Reporting
Requirements.

SCAO Administrative
Memorandum 2001-06
regarding Abstract
Timeliness.

Relevant portions from the
Mashantucket Pequot Tribal
Laws obligating the tribal
court to enforce the
judgments, orders, and
judicial acts of the courts of
the State of Michigan. The
Mashantucket Pequot Tribal
Nation is in Connecticut.

Interest Rates for Money
Judgments as of 7/1/01.

"Safety Tips for You and
Your Family" brochure,
together with an order form.

"The Source", Criminal
Justice Information Center,
June 2001.

*Enclosed for all judges
only:*

Brochure from U. S.
Department of Justice,
United States Marshals
Service—"Personal Security
Handbook".

Administrative Update

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be incorporated into a civil or criminal case. The trilogy of cases are *Daubert v Merrell Dow Pharmaceuticals, Inc.*, 509 US 579 (1993), *General Electric Co. v Joiner*, 522 US 136 (1997), and *Kumho Tire Co. v Carmichael*, 526 US 137 (1999).

The nine remaining chapters, each beginning with the title “Reference Guide on,” focus on the following scientific topics:

- Statistics
- Multiple Regression
- Survey Research
- Estimation of Economic Losses in Damages Awards
- Epidemiology
- Toxicology
- Medical Testimony
- DNA Evidence
- Engineering Practice and Methods

The manual in total or by chapter may be downloaded free in Adobe Acrobat format from the FJC at <http://air.fjc.gov/public/fjcweb.nsf/pages/16>. Bound versions of the manual may be purchased from LRP Publications at (800) 341-7874 x 307 (\$26.95 + \$4.50 ship/hand, 3-ring binder form), Matthew Bender Publishing Co. at (800) 833-9844 (\$40.00 + \$3.00 ship/hand + 6% sales tax, softcover), or West Group at (800) 344-5009 (\$17.50 + 6% sales tax, softcover). For more information on the FJC, you can visit its website at <http://www.fjc.gov>.

Bar examiners conference calls for contest submissions

All those interested in the bar admissions process may vie for a \$5,000 essay contest prize sponsored by the National Conference of Bar Examiners (NCBE). The conference is accepting entries for the 2001 Joe E. Covington Prize for Scholarship in Bar Admission Topics. This year’s topic: “Is There a Need to Reevaluate the Standards for Determining Minimum Competence to Practice Law?”

Entries should contain completely original work and reflect careful research, in-depth analysis, and clarity of expression, according to the NCBE. They should not exceed 8,000 words, excluding endnotes. The prize is conditioned on transferring full copyright of the winning entry to the NCBE.

Each author should submit two paper copies of the article, an electronic copy of the article on a 3 ½-inch diskette, and a resume detailing the author’s education and professional experience. The article should include endnotes or author-date references, or both, and should conform to the conventions of the Chicago Manual of Style, 14th edition, or The Bluebook: A Uniform System of Citation, 16th or 17th edition.

Submissions and questions should be addressed to Annie Walljasper, Editor, The Bar Examiner, National Conference of Bar Examiners, 402 West Wilson St., Madison, WI 53703–3614, (608) 280–8550 (phone), (608) 280–8552, awalljasper@ncbex.org. All applications must reach NCBE or be postmarked by Nov. 30, 2001.

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Administrative Update

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The NCBE's Editorial Advisory Committee will select the winner. Submissions will be judged on originality, scholarship, technical accuracy, and the quality and organization of the writing. The winning submission will be considered for publication in *The Bar Examiner*, NCBE's professional journal. Other submissions may also be considered for publication.

The award honors Joe E. Covington, a former dean of the University of Missouri-Columbia School of Law who was the first Director of Testing for NCBE. The Multistate Bar Examination was created and launched largely through his vision and perseverance.

The NCBE is a nonprofit organization that provides education, testing, and standards development in the bar admissions field. For more information, visit the NCBE web site at www.ncbex.org.

Changeover

GOVERNOR'S APPOINTMENTS

D36–David S. Robinson, Jr. P24413 to succeed Leona Lloyd, deceased. Effective date is September 4, 2001

C06–James M. Alexander P23289 to succeed Barry L. Howard, retired. Effective date is September 4, 2001.

DEATHS

Lloyd, Leona L., 36th District Court, passed away June 9, 2001. Judge Lloyd served the Wayne County district court since January, 1995.

Papp, Elza, Former 7th Circuit Court Judge, passed away June 7, 2001. Judge Papp served the Genesee County circuit court from January, 1967–July, 1972.

Maher, Richard M., former Court of Appeals Judge, passed away July 20, 2001. Judge Maher served the Court of Appeals from January, 1975–March 28, 1991. Judge Maher previously served as Traffic Court Referee 1963–1965; Recorder's Court Judge 1965–1968; and 3rd Circuit Court Judge September 1968–December, 1974.

Meden, Richard E., Former Alpena County Probate Court Judge, passed away April 17, 2001. Judge Meden served Alpena County from 7/19/71–12/31/82.

Van Dellen, Theodore, Former Municipal Judge for the City of Albion, passed away December 7, 2000. Judge Van Dellen served from July, 1961–December, 1968.

AUGUST 2001

SEPTEMBER 2001

14–15 MJJ: *Regional Court Support Training*, Holiday Inn, Mt. Pleasant

30–31 Michigan Association of Circuit Court Administrators, The Shack, White Cloud

5–6 MJJ: *District Court, OUIL*, Comfort Inn, Mt. Pleasant

17 Court Improvement Program Advisory Committee Meeting, SCAO, Lansing

6 Michigan Court Forms Committee, Probate and Family Division, SCAO, Lansing

18–19 MJJ: *Implementing the New ADR Rules: The Role of the ADR Clerk*, Sheraton Inn, Ann Arbor

11–13 MJJ: *Faculty Development Seminar*, Sheraton Hotel, Lansing

20 Michigan Judges Association Executive Board Meeting, State Bar Building, Lansing

11–13 MJJ: *Friend of the Court, New Employee Orientation Seminar*, Sheraton Hotel, Lansing

20 Region IV Upper Peninsula Probate and Juvenile Registers Meeting, Landmark Inn, Marquette

13 Southwest Probate Judges Meeting, 9th Circuit Court Family Division, Gull Road, Kalamazoo

24 Family Drug Court Training Program, Lansing, Location to be determined.

14 Region III and IV Probate Registers Meeting, Shoppenagon Inn, Grayling

Michigan Supreme Court **REPORT**

Michigan Supreme Court
PO Box 30052
Lansing, MI 48933
PH: 517/373-0129
www.supremecourt.state.mi.us